



IN THE STE. GENEVIEVE COUNTY CIRCUIT COURT
STATE OF MISSOURI

MICHAEL LURK,)	
)	
Plaintiff,)	Cause No.:
)	
vs.)	Div. No.
)	
THE AMERICAN RED CROSS,)	Personal Injury - Other
)	
SERVE: Office Manager/Person)	Jury Trial Demanded
in Charge)	
10195 Corporate Square Dr.)	
St. Louis, Missouri 63132)	
and)	
)	
JANE DOE,)	
)	
(HOLD SERVICE))	
)	
Defendants.)	

P E T I T I O N

Comes now Plaintiff Michael Lurk, by and through counsel, and for his cause of action against Defendants The American Red Cross and Jane Doe, states as follows:

1. That Plaintiff Michael Lurk (hereinafter "Plaintiff") is now and was at all times herein mentioned a resident of Ste. Genevieve, Missouri.

2. That on or about December 7, 2017, Plaintiff volunteered to donate blood through a blood drive held at Ste. Genevieve County Memorial Hospital in Ste. Genevieve, Missouri.

3. That Defendant The American Red Cross (hereinafter "Defendant Red Cross") is in the business of collecting, processing and distributing blood from individual volunteers such as Plaintiff and has a duty to possess and use that degree of skill and learning ordinarily used under the same or similar circumstances in the provision of blood collection services.

4. That Plaintiff's blood donation was performed by Jane Doe (name currently unknown to Plaintiff), who was at all times herein mentioned a resident of Missouri acting as the agent, servant or employee of Defendant Red Cross and within the scope and course of her agency and/or employment.

5. Prior to filing this Petition, Plaintiff's attorney obtained a written opinion from a competent and qualified Registered Nurse who is Vascular Access Board Certified (VA-BC), certifying the merit of this claim as required by law. See the Affidavit of Plaintiff's attorney, David G. Hughes, filed herewith as Exhibit A.

COUNT 1

Comes now Plaintiff, and for his cause of action against Defendant Red Cross, states:

6. That Plaintiff adopts every allegation contained in Paragraphs 1 through 5 as if fully alleged herein.

7. That Defendant Red Cross, by and through its agents, servants and employees, failed to use that degree of skill and learning ordinarily used under the same or similar circumstances by healthcare professionals and was negligent in one or more of the following respects, in that:

(a) Defendant Red Cross' employee, agent and/or servant Jane Doe failed to identify an arterial puncture versus a venous puncture during the blood donation/collection procedure;

(b) Defendant Red Cross' employee, agent and/or servant Jane Doe failed to remove the needle from the right radial artery and to properly manage the arterial puncture site;

(c) Defendant Red Cross' employee, agent and/or servant Jane Doe lacked proper venipuncture technique during the blood donation/collection procedure, resulting in an arterial puncture;

(d) Defendant Red Cross failed to properly educate, train, precept and monitor Defendant Jane Doe as its employee, agent and/or servant, resulting in a documented puncture into Plaintiff's right arm radial artery and causing permanent injury to Plaintiff;

(e) Defendant Red Cross failed to properly educate Defendant Jane Doe related to the inadvertent arterial puncture and need to follow up with a physician for assessment and intervention.

8. That as a direct and proximate result of Defendant Red Cross' negligence, Plaintiff suffered severe right arm and right radial artery injury which has required numerous surgeries including, but not limited to, median nerve release, carpal tunnel release, radial artery bypass with vein graft, thrombectomy and repeat thrombectomy, and multiple attempts of reconstruction of his radial artery; Plaintiff has endured additional ongoing pain and suffering, has incurred approximately \$200,000.00 in medical bills to date, and will require additional medical and surgical care for the remainder of his life; and Plaintiff

has lost time and wages from work and will lose additional time and wages from work in the future.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant Red Cross for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), and for his costs.

COUNT II

Comes now Plaintiff, and for his cause of action against Defendant Jane Doe, states:

9. That Plaintiff adopts every allegation contained in Paragraphs 1 through 8 as if fully alleged herein.

10. That Defendant Jane Doe had a duty to possess and use that degree of skill and learning ordinarily used under the same or similar circumstances by members of her profession in the treatment of Plaintiff.

11. That Defendant Jane Doe failed to use that degree of skill and learning ordinarily used under the same or similar circumstances by healthcare professionals and was negligent in one or more of the following respects:

(a) Defendant failed to identify an arterial puncture versus a venous puncture during the blood donation/collection procedure;

(b) Defendant failed to remove the needle from Plaintiff's right radial artery and to properly manage the arterial puncture site;

(c) Defendant lacked proper venipuncture technique during the blood donation/collection procedure resulting in an arterial puncture;

(d) Defendant was not properly educated, trained and/or prepared to perform the venipuncture procedure for blood donation/collection, resulting in a documented puncture into Plaintiff's right radial artery thereby causing permanent injury to Plaintiff;

(e) Defendant lacked patient education related to inadvertent arterial puncture and the need to follow up with a physician for assessment and intervention.

12. That as the direct and proximate result of the aforesaid negligence and carelessness of Defendant Jane Doe, Plaintiff was caused to suffer the injuries and damages described in Paragraph 8 of Count I.

WHEREFORE, Plaintiff prays judgment against Defendant Jane Doe in such sum in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) as a jury deems fair and reasonable, together with his costs.

Respectfully submitted,

/s/ David G. Hughes
David G. Hughes 47676
MOGAB & HUGHES ATTORNEYS, P.C.
701 Market Street, Suite 1510
St. Louis, Missouri 63101
(314) 241-4477 (Telephone)
(314) 241-4475 (Facsimile)
davidhughes@mogabandhughes.com

Attorney for Plaintiff

IN THE SAINTE GENEVIEVE COUNTY CIRCUIT COURT
STATE OF MISSOURI

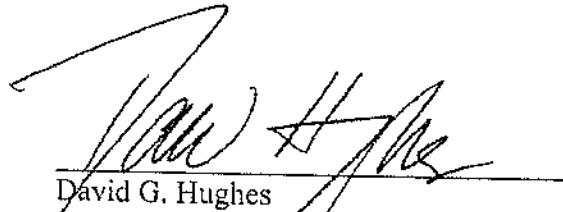
MICHAEL LURK,)
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Plaintiff,) Cause No.:
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vs.) Div. No.
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THE AMERICAN RED CROSS,) Personal Injury - Other
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SERVE: Office Manager/Person) Jury Trial Demanded
in Charge)
10195 Corporate Square Dr.)
St. Louis, Missouri 63132)
and)
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JANE DOE,)
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(HOLD SERVICE))
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Defendants.)



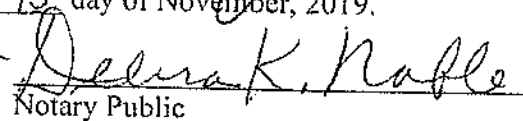
**AFFIDAVIT OF WRITTEN OPINION FROM A LEGALLY
QUALIFIED HEALTHCARE PROVIDER**

I, David G. Hughes, an attorney licensed to practice law in the State of Missouri and representing the Plaintiff in this case, hereby affirms upon my oath that I have received a written opinion from a qualified healthcare provider that Defendants The American Red Cross and Jane Doe failed to use such care as a reasonably prudent and careful healthcare provider would under similar circumstances, and that such failure to use reasonable care directly caused or directly contributed to cause damages to Plaintiff Michael Lurk as outlined in Plaintiff's Petition. The Registered Nurse, who also is Vascular Access Board Certified, is Gayle Kay Coulter, CRNI, VA-BC. Ms. Coulter is a Registered Nurse, earned her Certified Registered Nurse Infusion credential (CRNI), and also is Vascular Access Board Certified (VA-BC). Ms. Coulter teaches

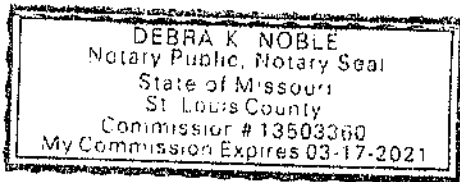
all types of venous access procedures, has authored and presented numerous seminars related to venipuncture techniques for both phlebotomy and peripheral IV access, performed phlebotomy for blood collection and therapeutic phlebotomy on patients, both in the hospital and outpatient infusion center, and is familiar with the standard of care for the performance of venipuncture for blood collection and of phlebotomists, phlebotomy technicians and other healthcare providers pertaining to venipuncture for blood collections. Ms. Coulter's office is located in Clearwater, Florida.


David G. Hughes

Subscribed and sworn to before me this 13th day of November, 2019.


Notary Public

My Commission Expires:



Respectfully submitted,

/s/ David G. Hughes
David G. Hughes 47676
MOGAB & HUGHES ATTORNEYS, P.C.
701 Market Street, Suite 1510
St. Louis, Missouri 63101
(314) 241-4477 (Telephone)
(314) 241-4475 (Facsimile)
davidhughes@mogabandhughes.com

Attorney for Plaintiff

IN THE TWENTY-FOURTH JUDICIAL CIRCUIT OF MISSOURI
ORDER ASSIGNING JUDGE

IN THE MATTER OF:

MICHAEL LURK

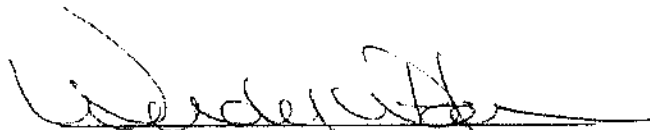
VS

THE AMERICAN RED CROSS

CASE NO. 19SG-CC00227

NOW ON THIS 14th day of November, 20 19, the undersigned, as Presiding Judge of the Twenty-fourth Judicial Circuit, pursuant to the powers granted by statute and local court rules, does assign the above-styled cause to the Honorable Jerel Lee Poor II.

IT IS FURTHER ORDERED that the judge assigned hereby shall have all powers and responsibilities for this cause as assigned by operation of law and the same shall continue until final disposition of the above-styled matter. The clerk is ordered to notify said Judge and counsel of this appointment.




WENDY WEXLER HORN
PRESIDING JUDGE
24TH JUDICIAL CIRCUIT



IN THE 24TH JUDICIAL CIRCUIT, STE. GENEVIEVE COUNTY, MISSOURI

Judge or Division: JEREL LEE POOR II	Case Number: 19SG-CC00229
Plaintiff/Petitioner: MICHAEL G LURK	Plaintiff's/Petitioner's Attorney/Address DAVID GEORGE HUGHES SUITE 1510 701 MARKET ST ST LOUIS, MO 63101
Defendant/Respondent: THE AMERICAN RED CROSS	Court Address: JULIE BOVA, CIRCUIT CLERK 55 SOUTH 3RD ST ROOM 23 SAINTE GENEVIEVE, MO 63670
Nature of Suit: CC Pers Injury-Other	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: THE AMERICAN RED CROSS	
Alias: OFFICE MGR./PERSON IN CHARGE 10195 CORPORATE SQUARE DRIVE SAINT LOUIS, MO 63132	
COURT SEAL OF 	You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.
STE. GENEVIEVE COUNTY	11/20/2019 /S/ KAREN GRASS
Date	Clerk
Further Information:	

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).

☐ other: _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE STE. GENEVIEVE COUNTY CIRCUIT COURT
STATE OF MISSOURI

MICHAEL LURK,)	
)	
Plaintiff,)	Cause No.: 19SG-CC00229
)	
vs.)	Div. No. 1
)	
THE AMERICAN RED CROSS,)	
)	
and)	
)	
JANE DOE,)	
)	
Defendants.)	

PLAINTIFF'S MOTION FOR CHANGE OF JUDGE

Comes now Plaintiff, by and through counsel, and pursuant to Rule 51.05, hereby
files his Motion for Change of Judge.

Respectfully submitted,

/s/ David G. Hughes
David G. Hughes 47676
MOGAB & HUGHES ATTORNEYS, P.C.
701 Market Street, Suite 1510
St. Louis, Missouri 63101
(314) 241-4477 (Telephone)
(314) 241-4475 (Facsimile)
davidhughes@mogabandhughes.com

Attorney for Plaintiff

IN THE STE. GENEVIEVE COUNTY CIRCUIT COURT
STATE OF MISSOURI

MICHAEL LURK,

Plaintiff,

vs.

THE AMERICAN RED CROSS,

and

JANE DOE,

Defendants.

)
)
) Cause No.: 19SG-CC00229
)
) Div. No. 1
)
)
)
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)
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)

ORDER

Plaintiff's Motion for Change of Judge is hereby sustained.

IT IS SO ORDERED.

The Honorable Jerel Lee Poor, II

Date

11 27 @ 1012
Jennifer Morgan 11/27/20




IN THE 24TH JUDICIAL CIRCUIT, STE. GENEVIEVE COUNTY, MISSOURI

Judge or Division: JEREL LEE POOR II	Case Number: 19SG-CC00229
Plaintiff/Petitioner: MICHAEL G LURK	Plaintiff's/Petitioner's Attorney/Address DAVID GEORGE HUGHES SUITE 1510 701 MARKET ST ST LOUIS, MO 63101
Defendant/Respondent: THE AMERICAN RED CROSS	Court Address: JULIE BOVA, CIRCUIT CLERK 55 SOUTH 3RD ST ROOM 23 SAINTE GENEVIEVE, MO 63670
Nature of Suit: CC Pers Injury-Other	

47676
(Date File Stamp)

Summons in Civil Case

The State of Missouri to: THE AMERICAN RED CROSS
Alias: 13
OFFICE MGR./PERSON IN CHARGE
10195 CORPORATE SQUARE DRIVE
SAINT LOUIS, MO 63132
COURT SEAL OF


STE. GENEVIEVE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

11/20/2019 /S/ KAREN GRASS
Date Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to:

Jennifer Morgan (name) Adam

Served at 10195 Corporate Sq. Dr. (address)

In St L (County/City of St. Louis), MO, on 11-27-19 (date) and 11-27-19 (time).

Karon Crocker (Printed Name of Sheriff or Server)
Mcrocker (Signature of Sheriff or Server)

Must be sworn before a notary public if not served by an authorized officer:

(Seal) Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public

Sheriff's Fees, if applicable

Summons \$ _____
Non Est \$ _____
Sheriff's Deputy Salary \$ 10.00
Supplemental Surcharge \$ _____
Mileage \$ _____ (_____ miles @ \$ _____ per mile)
Total \$ _____

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

19-SMCC-10938

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NOV 22 2019



IN THE 24TH JUDICIAL CIRCUIT, STE. GENEVIEVE COUNTY, MISSOURI

Judge or Division: JEREL LEE POOR II	Case Number: 19SG-CC00229	47676
Plaintiff/Petitioner: MICHAEL G LURK	Plaintiff's/Petitioner's Attorney/Address DAVID GEORGE HUGHES SUITE 1510 701 MARKET ST ST LOUIS, MO 63101	
Defendant/Respondent: THE AMERICAN RED CROSS	Court Address: JULIE BOVA, CIRCUIT CLERK 55 SOUTH 3RD ST ROOM 23 SAINTE GENEVIEVE, MO 63670	
Nature of Suit: CC Pers Injury-Other		

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: THE AMERICAN RED CROSS

Alias:

OFFICE MGR./PERSON IN CHARGE
10195 CORPORATE SQUARE DRIVE
SAINT LOUIS, MO 63132
COURT SEAL OF



STE. GENEVIEVE COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

11/20/2019

/S/ KAREN GRASS

Date

Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☒ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to:

Jennifer Morgan (name) Adam

☐ other:

Served at 10195 Corporate Sq. Dr.

in St L (County/City of St. Louis), MO, on 11-27-19 (date)

Karon Crocker

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____
 Non Est \$ _____
 Sheriff's Deputy Salary
 Supplemental Surcharge \$ 10.00
 Mileage \$ _____ (_____ miles @ \$. _____ per mile)
 Total \$ _____

A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

19-SMCC-10938

IN THE TWENTY-FOURTH JUDICIAL CIRCUIT OF MISSOURI

ORDER ASSIGNING JUDGE

IN THE MATTER OF:

MICHAEL LURK

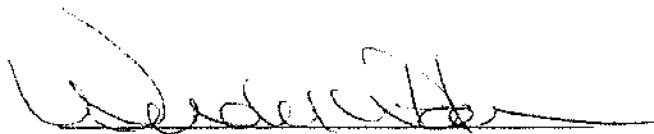
VS

THE AMERICAN RED CROSS

CASE NO. 19SG-CC00229

NOW ON THIS 2nd day of December, 2019, the undersigned, as Presiding Judge of the Twenty-fourth Judicial Circuit, pursuant to the powers granted by statute and local court rules, does assign the above-styled cause to the Honorable Wendy Wexler Horn.

IT IS FURTHER ORDERED that the judge assigned hereby shall have all powers and responsibilities for this cause as assigned by operation of law and the same shall continue until final disposition of the above-styled matter. The clerk is ordered to notify said Judge and counsel of this appointment.



WENDY WEXLER HORN
PRESIDING JUDGE
24TH JUDICIAL CIRCUIT